INSTITUTE OF PUBLIC ACCOUNTANTS

Submission to the Treasury on the ASIC Industry Funding Model Review

November 2022

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Dear Sir/ Madam

ASIC Industry Funding Model Review

The Institute of Public Accountants (IPA) welcomes the opportunity to provide comments on the ASIC Industry Funding Model (IFM) Review.

The IPA is one of the three professional accounting bodies in Australia, representing over 49,000 members and students in Australia and in over 100 countries. Our members include Registered Company Auditors (RCAs), registered liquidators, financial services licensees, credit providers and advisers across the superannuation sectors, who are all required to pay the levy and fees to ASIC under the IFM.

We are grateful to IPA members who have contributed their views and feedback to this consultation.

Over a number of years, the IPA has provided feedback on the Cost Recovery Implementation Statement (CRIS), ASIC KPIs, metrics for the KPIs, capability review, regulator performance, the review by the Financial Regulator Assessment Authority, and so on. We are very pleased that this Review is now being undertaken.

Overall, the IPA is of the view that the CRIS and the related process lack transparency, accountability and that the case has rarely been made for the levy amounts which in some cases are excessive, disproportionate, and reduce competition.

We have answered many of the questions in the discussion paper, below, in addition to adding comments and feedback which have been made previously and are worth repeating in the context of this Review.

Please don't hesitate to contact Vicki Stylianou (vicki.stylianou@publicaccountants.org.au or mob. 0419 942 733) if you have queries.

Yours sincerely

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COMMENTS ON THE ASIC IFM

Revenue raising

We appreciate that ASIC's revenue goes to the Commonwealth as part of consolidated revenue, however, every year there has been a considerable and increasing 'surplus'. We believe there is some capacity to either maintain or reduce fees, rather than invoicing for constant and significant increases. Many of our members, whether as financial advisers, liquidators or auditors are not able to either absorb fees or pass them on to clients, who themselves in many cases are under financial pressure. This continues to result in many members exiting these sectors, especially financial advice. In all sectors other costs are increasing, including professional indemnity insurance, which has become problematic with some members being unable to secure reasonably priced insurance.

We note that the 2021-22 ASIC Annual Report (page 151) states that ASIC's total revenue was $1.965 billion up from $1.808 billion the previous year. ASIC's total expenses (page146) were $465.76 million, down from $492.115 million in 2020-21. There is an insufficient breakdown of the revenue, including the taxation revenue which has two parts (fees and supervisory cost recovery levies). Non-taxation revenue also has a supervisory cost recovery levy component, which is also not broken down entirely. More transparency around ASIC's financial reporting would be useful as an input in this Review. The CRIS lacks sufficient detail to enable a proper analysis of the supervisory levies and the related costs.

Even though there are multiple sources of revenue, the fact remains that ASIC generates significantly more revenue for the government, beyond its operating costs. In fact, nearly four times more revenue than expenditure is generated. If ASIC were a listed entity, its dividend distribution would make it an attractive investment.

Regulatory overlap

Some of the entities subject to ASIC fees and levies are also regulated by other agencies including the Australian Taxation Office, Tax Practitioners Board, Financial Reporting Council (FRC) and in the case of professional accountants, by the professional accounting bodies enforcing the Accounting Professional and Ethical Standards Board (APESB) Code of Ethics. There is also the additional layer of reporting to the Professional Standards Councils for associations such as the IPA which have a Professional Standards Scheme. The cumulative regulatory impact should be considered when assessing the level of risk and applicable supervision, surveillance and even enforcement activity. This should in turn, lead to a reduction in the amount of the levy for the relevant entities or sectors.

There is also mandatory Continuing Professional Development and a complaints, investigations, and disciplinary process in place. Even though the professional accounting bodies do not have the same legislative enforcement powers as ASIC, the objectives of regulating, improving behaviour and culture, increasing professionalism (including integrity and competence), and serving the public interest are all the same. There is a high level of scrutiny of these regulated entities, and they also receive education, guidance and their interests are represented by their respective professional association. This is essentially a co-regulatory model and should be taken into consideration when assessing the required level of regulatory activity. This should in turn, lead to a reduction in the amount of the levy for the relevant entities or sectors.

Accordingly, the IFM could take into account the risk profile and regulatory overlap of certain supervised entities. This would mean that the model would have to be flexible enough to cover regulated individuals, whichever sector (or sub-sector) they belong to. This would recognize and reflect that there are other ways to apply the levy, that is, other than just sectors and sub-sectors as is currently the case.

Technology and efficiencies

ASIC has always been at the forefront of promoting regulatory technology (regtech) and its adoption. Therefore, we would expect to see ASIC leading the way in the use of regtech in its own regulatory activities, with a resulting decrease in costs, over time. We note that ASIC has also promoted 'suptech' (supervisory technology); including being involved with the Innovation Hub and the regulatory sandbox. All of this should translate to reduced costs and reduced fees and charges on regulated entities. We would be interested to know how the use of regtech and suptech are driving efficiencies and cost reduction at ASIC.

Competitive pressures

We contend that the reduction in the number of financial advisers (including qualified accountants) is counter-productive at a time when more Australian consumers are seeking affordable and competent financial advice from their choice of trusted adviser. The pandemic heightened this need, especially as 2.8 million Australians withdrew $25.3 billion from their superannuation under the former Government's early access to superannuation measure (APRA website, statistics current as at 12 July 2020).

There has been a reduction in the numbers of RCAs, liquidators, and financial advisers. This is evidenced in previous ASIC annual reports in the Summary of Stakeholders key data. Our own data on members in these sectors reflects a similar trend.

The cost of doing business, including ASIC fees and levies, has added to the pressure on these sectors, especially the smaller practices which cannot easily continue to absorb costs and find it increasingly difficult to pass costs on to clients who are equally embattled. Many IPA members hold multiple registrations which increases the cost of being in business. We believe that the cumulative cost for these, often small, practitioners should be taken into consideration.

The reduction in the numbers of these regulated entities has obviously reduced competition, with consequent implications for consumers.

A proportionate levy system would be more equitable; ease anti-competitive pressure; and better serve the public interest. ASIC already collects information to facilitate this system.

Registered liquidators and RCAs

Mandatory legislative requirements mean that liquidators must undertake certain tasks whether they are able to recover the fees or not. We note that between July 2018 and June 2019, for companies entering liquidation: 85% had assets of less than $100,000; 58% had less than $10,000; almost 37% were reported as asset-less; 8.5% had assets over $250,001; and 92% estimated the return to unsecured creditors would be $0. (ASIC Report 645 Insolvency Statistics June 2018-June 2019). We are advised by members who practice as liquidators that up to 80% of their fees are regularly 'written-off' and that they expect this to be offset by other engagements and work.

Two factors will drive an increase in the levy – a decrease in subsector population and/or an increase in the extent to which regulatory costs are attributable to the subsector. Since the introduction of the levy, the RCA subsector population has decreased by over 14% and the extent to which actual regulatory costs are attributable to the subsector have increased by over 233% with notable significant budgeted increases in: enforcement costs (226.73%), indirect costs (260.83%), and capital expenditure allowance (280.7%). There does not appear to be a breakdown of components of actual regulatory costs. We undertook extensive calculations in preparing our submission on a past CRIS and can make this available if it would assist.

Given that the number of liquidators and RCAs are declining in what is uncertain and cyclical sectors, we contend that a different approach should be considered, such as a lower, flat levy.

Member feedback

Some members have sent their ASIC invoices to us in a state of disbelief. The IPA has heard from many members over the last couple of years who have decided to surrender or think about surrendering their (limited) financial services license due to a lack of profitability. For many, the ASIC levy which is proportionally much higher than other costs of business, has become the 'last nail in the coffin' as they seek to exit the financial advice, insolvency, or audit sectors.

Objective of IFM review

The overall objective of the IFM Review is to refine the "Government's long-standing position of cost recovery fees and levies attributable to regulated activity…", taking into account the Charging Framework of charging individual or the organisation that creates the demand (section 1 of the discussion paper).

With this objective in mind, the Review would be more effective if it focuses on:

1. How to improve the methodology of allocating costs in an equitable manner (rather than whether the model should be simple or complex).

2. The manner (ie form, content, and timing) in which ASIC communicates the costs to its constituents.

3. How ASIC has discharged its accountability to the regulated entities for the costs.

Going back to the collection of the ASIC Supervisory Cost Recovery Levy Bills 2017 and the related Regulation Impact Statement (RIS), we note the statement on page 5:

Introduction of an industry funding model for ASIC's regulatory activities, in conjunction with enhanced accountability arrangements for ASIC. In particular, an industry funding model for ASIC would:

- *ensure that the costs of the regulatory activities undertaken by ASIC are borne by those creating the need for regulation, rather than Australian taxpayers;*

- *establish price signals to drive economic efficiencies in the way resources are allocated within ASIC; and*

- *improve ASIC's transparency and accountability to industry.*

We note that the RIS set out an evaluation plan, which included, inter alia, "the Australian National Audit Office (ANAO) will review the funding model – as it has done for APRA's cost recovery model – as appropriate".

The IPA believes that it would be advisable to have the ANAO review the funding model as an input to the review.

Further, the RIS notes:

The Government judges that these mechanisms will be sufficient to monitor the implementation and effectiveness of the ASIC industry funding model. APRA's cost recovery methodology is subject to the same review mechanisms and, over time, has been adjusted as required to ensure ongoing compliance with the Government's charging and cost recovery frameworks and better reflect the needs of regulated entities.

In our view, the Charging Framework and Statement, have not been adhered to in a transparent and accountable manner in the IFM and CRIS processes. Our comments in this submission outline the basis for this view.

QUESTIONS FROM THE DISCUSSION PAPER

Industry funding levies

1. **Appendix D provides a catalogue of sub-sector definitions, metrics and formulas. If the status quo remains (that is, there are no substantial changes to the IFM framework), are any changes required to ensure the existing industry sub-sectors, levy formulas and entity metrics remain fit for purpose in the longer-term and/or can respond to changes within industry sub-sectors?**

Note: Changes to sub-sector definitions, formulas and metrics would change the way levies are calculated and distributed amongst entities in a sub-sector and would impact the levy amounts for individual entities but would not change the total amount recovered from the relevant sub-sector.

Answer: The IPA believes the status quo should not remain.

2. **Do stakeholders understand ASIC's methodology for allocating costs of activities that impact multiple sub-sectors? Is the current level of transparency relating to this approach appropriate?**

Answer: The IPA has on many occasions stated that there is insufficient transparency around the methodology for allocating costs, across sub-sectors, within sectors and overall. We have made these comments with respect to consultation on the CRIS, review of ASIC's KPIs, review of the metrics of ASIC's KPIs, regulator performance review (latest being by the Dept of Prime Minister and Cabinet), review of aspects of ASIC by the Financial Regulator Assessment Authority and during many other consultations and reviews over a number of years.

Transparency and accountability

We refer to the Australian Government Cost Recovery Guidelines (RMG 304) which note under the heading of 'accountability' that meeting the principle of transparency and accountability involves reporting on performance for the activity on an ongoing basis. The Guidelines add that access to information about ASIC's fees-for-service activities can help stakeholders determine whether cost-recovered activities are being implemented efficiently and effectively. Further, a key consideration is "the impact of cost recovery on competition, innovation or the financial viability of those who may need to pay charges and the cumulative effect of other government activities".

The IPA contends that these considerations noted in the Cost Recovery Guidelines have not been duly considered and given due weight. For instance, industry has been highly critical of the impact of the cost recovery levies on the financial viability of regulated entities; and on the reduction in competition as the number of regulated entities across all sectors (ie liquidators, auditors, and financial services licensees) is diminishing year on year.

The IPA agrees that transparency and accountability are critical for the successful implementation of the funding model. For this reason, more information is needed on the actual break down of the activities, by sub-sector, including the indirect costs and the linkages between the costs, performance metrics and outcomes, which are all mentioned in the Guidelines.

In addition, it would be useful to have more information in one place rather than scattered across numerous documents. There is the related information listed in the CRIS and importantly, there is the ASIC Annual Report (which includes the Annual Performance Statement), Annual Corporate Plan, Australian Government Charging Framework and its Resource Management Guide 302, Cost Recovery Guidelines, Regulator Performance Guide and ASIC's self-assessment against the Guide.

A simplified document for users/stakeholders, perhaps on an industry/sector basis, with relevant information only, would be useful.

3. **Is it more important to have a simpler model that can be more readily understood by entities and administered by ASIC which may result in increased cross-subsidisation, or a more equitable model (similar to the status quo) that closely links the recovery of costs to the groups of entities causing the need for those costs?**

Answer: The IPA favours a simpler model and believes that a more equitable balance can be struck between simplicity and equity. However, in striking this balance, other inputs are required. For instance, in considering the term 'entities causing the need for those costs' – we contend that ASIC should have due regard to the risk profile of entities in the same way that other regulators do, such as the ATO. In this way, scarce resources are applied to the highest risk areas. This analysis might include previous transgressions, type of work, type of clients and so on. Due to the lack of transparency, it is unclear whether ASIC undertakes this kind of analysis. However, based on ASIC's auditor review program, we have doubts that a credible methodology is applied. Insurance companies have a sophisticated model for determining risk across insured entities and apply appropriate premiums, coverage, excesses, and exclusions. This type of methodology results in a more tailored approach in terms of those causing the need for costs pay a more accurate amount.

4. **Is cross-subsidising costs for entities within a sub-sector or sector more appropriate than cross-subsidising costs across all of ASIC's regulated population? If so, why?**

Answer: It depends on whether the costs accurately reflect those being regulated. In addition, with respect to indirect costs such as property costs, education, policy development and so on, it would be difficult to divide these according to a sector or sub-sector and some (indirect) costs should be allocated across all of the regulated population. The IPA firmly believes that some costs should be attributable to the public good and should be funded from consolidated revenue. Whilst we know that the overall funding is not in scope, nevertheless we are compelled to make this comment, and will continue to do so. Given ASIC's significant revenue raising, more of this could be used to fund activities which are a public good (such as well functioning markets). We appreciate this would have to go through the budgetary process and be allocated from consolidated revenue. The IPA has often advocated for more funding to be allocated to ASIC, though we appreciate this is contentious. It could be considered in the two Parliamentary inquiries which have been announced since this Review was commenced.

5. **Are there other opportunities to simplify the design, structure and legislative framework for levies? If so, what opportunities and what benefits would they provide?**

Answer:

- Currently, the model for allocating costs is inequitable in that it does not necessarily recover costs from entities that create the enforcement action.
- A more refined model (rather than a simple model) probably has a greater chance of finding a fairer outcome.
- Across the industry associations there appears to be a consensus that a few large players are driving IFM enforcements costs which many smaller players are forced to subsidise - why not do it the other way around and charge smaller players a nominal 'fee'/charge and essentially have the larger players subsidise the overall compliance effort.
- An optimal charging model really needs to get closer to having those who drive the cost, bear the cost.

6. **Does the design, structure and legislative framework of the levy component of the IFM have sufficient flexibility to respond to changes in markets, sectors and products ASIC has oversight of? If not, what aspects require more flexibility and what changes could be made?**

Answer: The IFM would work better with a stable and 'healthy' population. As segment populations are diluted with departures and turnover, assigning past costs to current and new entrants is inequitable (eg past compliance/enforcement costs against participants who may have left the market is borne by those we remain or join the market). These past costs should be borne by government and not by regulated entities with a clean record.

7. **How can costs associated with enforcement activity be recovered most equitably? What changes could be made to the current approach, and what benefits would they provide?**

Answer: As above to question 3.

We appreciate that estimating the costs of enforcement activities can be challenging as they can vary significantly depending on the issues and the processes (eg court hearings etc) involved. The issues and processes are not always within ASIC's control and therefore estimating their costs can be difficult. However, it is common practice when an organisation prepares its annual budget that it separately estimates the costs that it controls and those that are outside its control. The uncontrollable costs are determined based on past experience for similar conditions with explanations of the assumptions used in the estimates. Explanations are also provided where there are variances between the budgeted and actual expenditures. Explanations for the variances assists with transparency and accountability for actions and decisions.

ASIC could adopt a similar budgeting approach to provide regulated entities with more reliable cost estimates. Additionally, this is also a more transparent approach and assists regulated entities in understanding the variances between ASIC's budgeted and actual expenditures.

8. **Are there opportunities to improve the transparency and reporting of enforcement costs? If so, what changes could be made and what benefits would they provide?**

Answer: Suggestions in the answers above would increase the transparency of cost allocations and provide better explanations for the derivation of the costs and their variability. This would in turn facilitate ASIC in discharging its accountability to its regulated entities.

9. **Is the approach of attributing costs of illegal unlicensed conduct to the most 'relevant' sub sector the most appropriate recovery method? Alternatively, how should these costs be recovered, and why?**

Answer: These costs should be recovered (or allocated) from consolidated revenue, as they are part of the public good. It is blatantly unfair for compliant entities to be burdened with the cost of dealing with illegal operators. This activity is part of consumer protection, ensuring that markets operate properly and are integral to the legislative obligations imposed upon ASIC. There is an indirect benefit for regulated entities, but this is not the core consideration.

However, detailed reporting for these activities is needed to ensure transparency and accountability.

10. **Are there alternative ways to recover the costs of ASIC's activity relating to emerging sectors and legal unlicensed conduct from current industry sub-sectors, and why?**

Answer: The purpose of the IFM is to recover the costs of regulating entities from the entities being regulated to which those costs can be attributed. There is absolutely no basis for extending this to emerging sectors, legal unlicensed conduct or, as mentioned above, illegal conduct. These activities are undertaken for the public good which includes consumer protection. They are not attributable to regulated entities. Even though regulated entities benefit from well-regulated markets, these activities are not part of the actual cost of regulating regulated entities. This is simply blatant over-reach by ASIC.

11. **How can costs associated with capital expenditure be recovered most equitably and transparently? What changes could be made to the current approach, and what benefits would they provide?**

Answer: Capital expenditure should not be attributable to regulated entities, it is part of the cost of government. However, as noted above in question 4, it may be more equitable to divide such costs across all regulated sectors. This should be weighted in accordance with say the size of the entity (eg revenue, staff, net assets) and apportioned between regulated entities.

12. **How can costs associated with education and policy advice be recovered most equitably and transparently? What changes could be made to the current approach, and what benefits would they provide?**

Answer: The IPA finds it highly objectionable that education and policy advice are included in the IFM. Why is ASIC undertaking education relating to regulated entities. This is done by professional associations, licensees, inhouse and so on. ASIC participates in the education offered by regulated entities and could charge directly for doing so in the same way that some speakers charge fees. Policy advice is a function of government and the cost of doing so should be borne by government. It is highly unlikely that transparency and accountability will be sufficient around policy advice, which means it should not be included in the IFM. In this regard we refer to the Charging Framework.

13. **What changes could be made to the reporting of indirect costs to improve stakeholder understanding of these costs?**

Answer: We were unable to find a reasonable explanation in the CRIS or in other ASIC documents for the 'other regulatory activities' and 'indirect costs'. However, given that these costs are relatively high, accounting for nearly 40 per cent of the amount levied, then more transparency is needed. We also expect ASIC to be more efficient and effective in its activities.

Most businesses are under pressure to reduce costs, from having to move to less expensive office locations, to driving efficiencies at all levels, and there is a community expectation that government will do likewise. Whilst we appreciate that ASIC has more functions and responsibilities and that more funding has been provided, we expect cost savings will be made where appropriate and these should be reported in the CRIS.

Our understanding is that ASIC is subject to an efficiency dividend, though we can't locate any precise information on this apart from what was reported in the 2015 Capability Review, see below.

Over the period of 2005 to 2015 ASIC has been subject to an efficiency dividend of 1 per cent to 2.5 per cent annually, coupled with one-off cuts of 2 per cent (from 2007-08 to 2011-12) to 2.5 per cent (from 2012-13 to 2013-15). On a nominal basis, the cumulative impact of the efficiency dividend 2014-15 was around $25m of around $103m since 2004-05. The efficiency dividend has been applied to most agencies that receive direct funding from the Government, except for nine agencies with full or partial exemption.[184] ASIC was also subject to an additional 10 per cent budget cut in 2015, which was applied to core and NPP funding (excluding capex and market supervision) on top of an efficiency dividend of 5 per cent (2.5 per cent annual and 2.5 per cent one-off).

We also question why industry is being charged for 'policy advice' or 'central strategy' and we are unsure of what these are and what value they have for the regulated entities. Even being charged for 'education' or 'stakeholder engagement' seems excessive. Many regulated entities go to education institutions or their professional association for accredited/recognized education, training, and information.

We appreciate that some entities may benefit from education or information from ASIC, however, for many, education is costly enough without having an additional charge for something they may not be accessing. We are unsure as to why industry is being charged for industry engagement. We would expect this to be a standard regulator activity that is part of the cost of 'doing (government) business' and accordingly should be met by government. ASIC is not a policy agency so again; we are uncertain of what 'policy advice' is being made and why regulated entities should be charged for this. If this refers to ASIC's input to policy development, then this should be considered as a cost of doing government business. There is also a lack of transparency around what policy advice or input ASIC is providing to Treasury or other government agencies.

We refer to the Australian Government Cost Recovery Guidelines (RMG 304) which state that "Government activities should meet quantity, quality and other targets, be undertaken at minimum cost…".

14. Do regulated entities find estimated levies useful, and how is this information used by entities?

Answer: It is useful for budgeting and planning purposes. The issue has been the timing gap for invoices being sent between the estimated and actual levies and the discrepancy between the amounts. We have had many members complain about the huge differences between the estimated and actual levy.

Risk assessment – timing and certainty

We note that the 2020-21 CRIS (p153) states that "the potential risks of the fees-for-service model include:

• the perception that the model lacks transparency about the basis of the fees;

• the fees for service may not match our actual regulatory costs;

• uncertainty about the classification of tiered fees; and

• the tiered fees could result in some entities being subject to a large increase in fees if they fall within the complex category".

The CRIS goes on to state that the "Risks can be appropriately mitigated and managed by increasing the level of consultation and communication with stakeholders to ensure maximum transparency and understanding. We have assessed the fees-for-service model as medium risk under the Australian Government Regulatory Charging Risk Assessment".

Given the above, the IPA contends that it is unreasonable for ASIC to apply estimates and expect that regulated entities can absorb huge (or any) fluctuations when they are operating in the same uncertain environment as ASIC, have their own costs to meet and cannot always pass these on to clients and customers. We suggest actual costs should be used rather than estimates.

Many of our members charge monthly or fixed fees based on a contractual arrangement, as clients prefer the certainty that fixed fees provide. It is difficult for this business model to absorb the fluctuations which the ASIC fee model may impose. The need for certainty and timeliness, especially in the current uncertain economic environment, should not be under-estimated. Genuine 'consultation and communication' is needed to understand the pressures that industry is facing, especially the smaller practices and licensees, many of which are sole traders.

We suggest that the current approach of estimating levies in the first half of the year and then invoicing actual levies in January is unhelpful. ASIC may not be operating a business but a practical approach to regulating businesses is essential to efficient markets.

14.1. Noting the trade-off between timing and accuracy, when is it most beneficial for entities to receive estimated levy amounts?

Answer: Between January and March or June at the latest.

14.2. Would alternative information, such as a range for estimated levies, be more useful?

Answer: This is likely to add confusion and create ambiguity. It would be preferable for ASIC to be more accurate in its forecasting. We all have to forecast and budget and perhaps ASIC needs to review its forecasting abilities.

15. Is it more important to have less volatile/more stable levy amounts year-on-year, or more granular and equitable apportionment of costs each year?

Answer: The IPA doesn't believe this trade-off is necessary if ASIC could improve its forecasting and budgeting.

16. Are there other ways to manage or reduce volatility in levy amounts year-on-year, including other approaches to spreading costs? If so, why, and what benefits would it provide?

Answer: If more accurate forecasting is not possible, then the IPA would support an unders and overs approach. This is a well established and understood process and various organisations and agencies use it. This type of smoothing of cashflow or similar method would be preferable to the current situation.

Fees-for-service

17. In relation to the design, structure and legislative framework for fees-for-service:

17.1. Are any changes required to ensure it remains fit for purpose in the longer-term and/or can respond to changes in industry?

17.2. Are there opportunities to simplify the design, structure, and legislative framework for fees-for-service?

18. **Are there any costs currently recovered through fees-for-service that would be more appropriate to recover through industry levies? If so, why?**

19. **If fee amounts are to be changed, should this be amended via a one-off increase or staged to spread the impact over multiple years?**

20. **Is it appropriate for ASIC to have the power to determine which of its regulatory activities/services it can charge a fee for?**

21. **Is it appropriate for ASIC to have the power to set fee amounts, or should this power remain with the Government?**

Answer: Based on ASIC's track record and lack of transparency and accountability, we prefer this power to remain with the Government.

21.1. **If ASIC were provided the power to set fee amounts, should there be any limitations on what fees it can adjust, or by how much? For example, setting caps on specific fees in primary law or regulations, or setting principles to guide ASIC's setting of fee amounts?**

Answer: Yes, there should be caps and strict guidelines such as no more than CPI. Otherwise, ASIC will continue to increase fees at an exorbitant rate with no accountability. Unjustified fee increases have been well documented.

22. **What transparency and accountability mechanisms would be appropriate if ASIC were setting fee amounts?**

Answer: Similar mechanisms to those discussed in this submission.

23. **Do fees for licence and registration cancellations provide a disincentive to cancel licenses and registrations? If so, would a lower fee or no fee remove this disincentive?**

Answer: Yes, we have had members refuse to pay fees to deregister due to the cost, and they believe their registration will automatically lapse when they don't pay to renew or lodge an annual statement etc. No fee would of course be preferable, otherwise a nominal fee could apply.

24. **Would it be more appropriate for the costs associated with license and registration cancellations to be recovered through industry levies (noting that there are wider benefits to ensuring entities and individuals that are no longer undertaking a particular licensed activity do not continue to hold a license for that activity)?**

Answer: No, this is not related to the cost of regulating those entities that are still registered or licensed.

25. **Is it appropriate for ASIC's work on individual relief applications to be recovered via fees, with the costs associated with ASIC's work on relief provided to a class of entities to be recovered through industry levies?**

Reporting, transparency and consultation

26. **How do regulated entities and other stakeholders engage with ASIC's transparency and consultation mechanisms relating to the IFM? What aspects are most useful?**

26.1. **What do stakeholders seek from mechanisms to engage with the IFM? Is it more important for these mechanisms to provide transparency, or to allow for stakeholder consultation and feedback?**

Answer: We are unsure as to the meaning of this question. Part of transparency is consultation and feedback, and we expect to have these as well as transparency.

27. **Are the existing transparency and consultation mechanisms in relation to the IFM appropriate?**

    27.1. **Would changes to existing mechanisms or alternative mechanisms be beneficial? If so, what changes could be adopted and what benefits would they provide?**

Answer: The main issue is not the mechanism for consultation but rather that ASIC rarely seems to take on board what is being provided by stakeholders (and many of us have discussed this at length). In terms of transparency – see above.

28. **How is the CRIS used by regulated entities and other stakeholders, and do stakeholders find the information in the CRIS useful?**

    28.1. **Could improvements be made to the CRIS, including the form/format and nature of information provided? If so, what improvements and what benefits would they provide?**

Answer: The CRIS is not overly useful.

Currently, the CRIS is lengthy, complex and not released at the same time each year. This makes it difficult for regulated entities to budget for the costs and to try and seek recovery from clients if possible.

The CRIS does not provide sufficient transparency to assess if the current model is effective – key cost drivers (likely to be driven by more significant compliance/enforcement activities of the larger regulated entities) are not readily identifiable.

There seems little benefit in seeking feedback on the CRIS each year – there is a lack of clarity, it is less and less accurate as time goes on, and few people are responding as the efforts of responding will not result in change.

    28.2. **At what time is it most beneficial for the CRIS to be published?**

29. **Noting that changes to the IFM are for the most part decisions for the Government, is annual consultation by ASIC via the CRIS useful? Would less frequent but more substantive consultation be preferable?**

Answer: On the basis that this review results in beneficial change, then we would be open to less frequent but more meaningful consultation, say every three years on the basis that the whole process would take three to five years.

If the CRIS is retained, it should be published at the same time each year; a one-page dashboard/summary should be added so users can more readily find the single number relevant to them.

30. **Are changes required to the criteria determining material variance? If so, what should be changed – the percentage and/or dollar value amount, or be based on the number of entities impacted?**

    30.1. **When should information regarding material variations be published?**

31. **What other information would be useful to regulated entities or other stakeholders to understand how ASIC sets its regulatory priorities and/or to understand the relationship between ASIC's costs and the amounts recovered from industry? What benefits would additional information provide?**

Answer: As we have requested many times, we would appreciate information on what ASIC does to drive efficiencies and reduce its costs, including both direct and indirect costs. For instance, does

ASIC use technology to reduce costs, does it use staff appropriately such as not using senior staff to perform administrative functions that more junior and less expensive staff could do, does ASIC apply the APS efficiency dividend or equivalent, could ASIC rent cheaper premises for its offices, how does ASIC determine what education is needed, and so on.